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VIA CM/ECF

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Honorable Robert W. Lehrburger
United States Magistrate Judge
Southern District of New York
500 Pearl Street, Courtroom 18D
New York, New York 10007

**Re: *In re Hapag-Lloyd Aktiengesellschaft a/k/a Hapag-Lloyd AG*, Case No. 19-cv-5731-GHW-RWL
Letter Motion, on Partial Consent, Seeking a 30-Day Extension of Time
(1) for the NVOCC Third-Party Defendants to Move to Dismiss Certain
Third-Party Complaints, and (2) for Third-Party Defendants DSV Air & Sea
Inc., Pantainer (H.K.) Ltd., and Logfret, Inc. to Answer or Otherwise
Respond to those Complaints**

Dear Judge Lehrburger:

We represent Third Party Defendants DSV Air & Sea Inc., s/h/a DSV Air & Sea, Inc. (“DSV”), Pantainer (H.K.) Ltd. (“Pantainer”),¹ and Logfret, Inc. in the proceeding referenced above. Each of these Third Party Defendants are non-vessel-operating common carriers (“NVOCC[s]”).

We write on behalf of our clients and numerous other NVOCC third party defendants (the “NVOCC Third-Party Defendants”) named in the following third-party complaints: (1) the Third-Party Complaint of Third-Party Plaintiff Hartford Fire Insurance Company, filed February 24, 2020 (the “Hartford Fire Insurance Company Third-Party Complaint”) (CM/ECF Nos. 221, 223); (2) the Amended Third-Party Complaint, dated March 4, 2020, filed by Third-Party Plaintiffs Federal Insurance Company, et al. (the “Federal Insurance Third-Party Complaint”) (CM/ECF No. 233); (3) the Third-Party Complaint of Third-Party Plaintiffs Acco Brands USA LLC, et al., filed March 5, 2020 (the “Acco Third-Party Complaint”) (CM/ECF No. 237); (4) the Third-Party Complaint of Third-Party Plaintiff Zurich American Insurance Company, filed March 5, 2020 (the “Zurich Third-Party Complaint”) (CM/ECF No. 239); and (5) the Third-Party Complaint of Third-Party Plaintiff Liberty Mutual Insurance Company filed March 6, 2020 (the “Liberty Mutual Third-Party Complaint”) (CM/ECF No. 245).

¹ Pantainer has been incorrectly named in one pleading as “*Paintainer* (H.K.) Ltd.” See CM/ECF No. 237 at 2, ¶ 31.



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We write pursuant to Rules I(A), I(F) and III(B) of Your Honor's Individual Practices in Civil Cases (dated as of February 3, 2020) to respectfully request a thirty-day extension, to November 6, 2020, (1) for the NVOCC Third-Party Defendants to file a motion to dismiss, with briefs, of the Eighth Cause of Action in both the Federal Insurance and Acco Third-Party Complaints, and (2) for DSV, Pantainer, and Logfret to answer or otherwise respond to those third-party complaints. The current deadline is October 7, 2020. CM/ECF No. 538. Because our clients and numerous other NVOCCs that were not involved in the shipment of the coconut pellets suspected of being the cause of the fire aboard the M/V YANTIAN EXPRESS are engaged in settlement negotiations, two sets of Third-Party Plaintiffs have consented to this request through their counsel, including those from the Federal Insurance and Acco Third-Party Complaints (represented by Hill Rivkins LLP and Mound Cotton Wollan & Greengrass LLP respectively).²

As background, on July 20, 2020, this firm filed letter motions on behalf of DSV, Pantainer, and Logfret requesting a pre-motion conference to seek leave from this Court for our clients to file motions to dismiss the Eighth Causes of Action in the Federal Insurance and Acco Third-Party Complaints. CM/ECF Nos. 455, 487, & 511. These letter motions were joined by other NVOCC Third-Party Defendants. *See, e.g.*, CM/ECF No. 495.

On August 25, 2020, the Court held a teleconference with all interested parties. *See* CM/ECF No. 538. Subsequently that same day, this Court entered an Order setting the NVOCC Third-Party Defendants' deadline to file motions to dismiss and briefs as October 7, 2020. *Id.*

Since that teleconference, these same NVOCC Third-Party Defendants and the Third-Party Plaintiffs from the Federal Insurance and Acco Third-Party Complaints have made good progress on a possible resolution that could eliminate entirely the need for the motions. We hope that with a thirty-day extension of the deadline to move and/or answer, these parties will be able to complete these negotiations. In considering the request, we note for the Court that the additional time is needed, in part, because of the number of parties involved in negotiating and ultimately required to approve the possible agreement.

For these reasons, we respectfully request that the Court extend by thirty days, to November 6, 2020, (1) the NVOCC Third-Party Defendants' time to file a motion to dismiss the Eighth Cause of Action in both the Federal Insurance and Acco Third-Party Complaints, and

² Counsel for the three remaining Third-Party Plaintiffs, including (1) Hartford Fire Insurance Company, (2) Zurich American Insurance Company, and (3) Liberty Mutual Insurance Company, failed to respond to inquiries about this Letter Motion from the NVOCC Third-Party Defendants' counsel.



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(2) for DSV, Pantainer, and Logfret to answer or otherwise respond to those third-party complaints.

We also note for the Court that, because DSV, Pantainer and Logfret are only named as Third-Party Defendants in the Federal Insurance and Acco Third-Party Complaints and counsel for those Third-Party Plaintiffs have consented to this Letter Motion (represented by Hill Rivkins LLP and Mound Cotton Wollan & Greengrass LLP respectively) this portion of our Letter Motion, seeking to extend the answer or motion to dismiss deadline specifically for DSV, Pantainer, and Logfret, is respectfully submitted fully on consent.

Pursuant to Rule I(F) of the Court's Individual Practices in Civil Cases, we note that no party has previously moved for any extension of this deadline.

We thank the Court for its attention to this matter.

Respectfully submitted,

/s/ Patrick J. Boyle

Patrick J. Boyle

cc: All counsel of record (via CM/ECF)

SO ORDERED:

10/6/2020

A handwritten signature in black ink, appearing to be "R. Lehrburger", written over a horizontal line.

HON. ROBERT W. LEHRBURGER
UNITED STATES MAGISTRATE JUDGE